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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/358,933	07/23/1999	AKIHIRO KOHNO	35.G2429	2145
5514	7590	08/19/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			LEE, RICHARD J	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 08/19/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/358,933

**Applicant(s)**

KOHNO ET AL.

**Examiner**

Richard Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5-8,12-15,19-22 and 26-40 is/are pending in the application.
- 4a) Of the above claim(s) 37-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-8,12-15,19-22 and 26-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Newly submitted claims 37-40 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The particular features of “a selection unit for selecting one received image from the multiple images displayed on the display unit; wherein said notification unit causes the display unit to display the received image selected by said selection unit in a window different from the window for the multiple images, and changes the state of the window in accordance with whether the selected received image is changed or not” as recited in claim 37, and the corresponding method and method steps as recited in claim 40 are directed to an invention that is independent and distinct from the invention originally claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 37-40 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5-8, 12-15, 19-22, and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa of record (6,271,805) in view of Okazaki et al of record (5,819,048) and Yamaashi et al of record (5,621,429).

Yonezawa discloses a communication apparatus and method as shown in Figure 1, and substantially the same communication apparatus and method, and storage medium storing a

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program as claimed in claims 1-3, 5, 7-10, 12, 14-17, 19, 21-24, 26, and 28-30 comprising substantially the same reception unit/process code for receiving images from a plurality of communications terminals (60, fig. 1, fig. 2, fig. 15); an output unit/process code for outputting the images received by the reception unit in order to display the images on a display unit as multiple images (see fig. 3, col. 4, line 18-26, line 58 to col. 5, line 13, fig. 6, col. 5, line 14 to col. 6, line 40, col. 7, line 66 to col. 8, line 10, fig. 15); assigning unit for assigning an arbitrary image from among the multiple images, and a control unit for controlling a state of outputting the image assigned by the assigning unit (see col. 5, line 38 to col. 6, line 6); wherein changing the image information displayed on the display unit is a change in a state of display of an icon indicating a corresponding one of the plurality of communication terminals (see col. 6, line 53 to col. 7, line 6).

Yonezawa does not particularly disclose, though, the followings:

(a) a notification unit for acquiring and notifying of a state of frame rate of the images received by the reception unit, wherein the notification unit causes the display unit to display an image information of the state of frame rate corresponding to each of the images received from the communication terminal, the image information being displayed on a predetermined area at a time when the received images are displayed, wherein the notification unit notifies of the state of frame rate by changing the image information so that a first image information is displayed when the received images are displayed and the displayed images are changed, a second image information is displayed when the received images are displayed and the displayed images are not changed, and neither the first or the second images information are displayed when the received images are not displayed as claimed in claims 1, 8, 15, 22, 29, and 30;

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(b) wherein the notification unit comprises one of flashing of an icon, display of character information, and display of numerals as claimed in claims 7, 14, 21, and 28; and

(c) wherein the notification unit does not perform notification when the frame rate is high, and performs notification when the frame rate is reduced as claimed in claims 6, 13, 20, and 27.

Regarding (a), Okazaki et al, however, discloses an image data processing apparatus as shown in Figures 1 and 2, and teaches the conventional use of a notification unit for acquiring and notifying of a state of frame rate of the images received by the reception unit, and wherein the notification unit causes the display unit to display an image information of the state of frame rate corresponding to each of the images received from the communication terminal (see Figure 1: "Report of Reception Rate", with the reception rates and real frame rate reading on the actual frame rate, col. 7, lines 3+). Further, Yamaashi et al discloses a video data display controlling system as shown in Figure 1, and teaches the particular notification of the state of frame rate by changing the image information (i.e., the reception rate is displayed providing the image information of the state of the frame rate, together with the received images as provided on display 203) so that a first image information is displayed when the received images are displayed and the displayed images are changed (i.e., when the frame rate is changed based on the image quality desired by the user, new frame rate information representing the first image information is displayed when the received images are displayed and the displayed images are changed, see Abstract, column 3, lines 23-30, column 4, lines 30-67, column 7, lines 24-38, line 64 to column 8, line 18, column 8, lines 28-47, column 12, line 34 to column 13, line 12, column 13, line 57 to column 14, line 11), a second image information is displayed when the received

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images are displayed and the displayed images are not changed (i.e., frame rate information representing the second image information is displayed when images are displayed and the display images are not changed, see Abstract, column 3, lines 23-30, column 4, lines 30-67, column 7, lines 24-38, line 64 to column 8, line 18, column 8, lines 28-47, column 12, line 34 to column 13, line 12, column 13, line 57 to column 14, line 11), and neither the first or the second image information are displayed when the received images are not displayed (i.e., this is inherent if not obvious since there would be no need to display the frame rate or any other information corresponding to the first and second image information when the received images are not displayed). Therefore, it would have been obvious to one of ordinary skill in the art, having the Yonezawa, Okazaki et al, and Yamaashi et al references in front of him/her and the general knowledge of the particular notification and display of frame rates of images, would have had no difficulty in providing the notification unit for acquiring and notifying of a state of frame rate of the images received by the reception unit, wherein the notification unit causes the display unit to display an image information of the state of frame rate corresponding to each of the images received from the communication terminal, the image information being displayed on a predetermined area at a time when the received images are displayed, wherein the notification unit notifies of the state of frame rate by changing the image information so that a first image information is displayed when the received images are displayed and the displayed images are changed, a second image information is displayed when the received images are displayed and the displayed images are not changed, and neither the first or the second images information are displayed when the received images are not displayed all as taught by Okazaki et al and

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Yamaashi et al for the communication system of Yonezawa for the same well known notification and display of frame rates for management of video bandwidth constraints purposes as claimed.

Regarding (b), it is noted that though Yonezawa teaches performing notification by changing the color of an icon (col. 12, line 8-18), Yonezawa does not disclose performing notification by one of flashing an icon, display of character information, and display of numerals as claimed. Despite the difference, it is viewed that such difference of a notification means is merely an obvious design preference used to achieve a desirable effect, but has no patentable weight over Yonezawa due to the fact that Yonezawa already teaches similar notification means.

Regarding (c), Yamaashi et al teaches keeping track of the "frame rate" of the received image data, i.e. the state of distribution, based on the bandwidth capacity, and the changes in the display information in accordance to the bandwidth capacity, as well as notifying and changing the display information in accordance to high and low priority of image area interests, which is substantially equivalent or has the capacity to perform notification in accordance to high or reduced frame rate as claimed (see Abstract, col. 7, line 24-38, line 64 to col. 8, line 18, col. 8, line 28-47, col. 12, line 34 to col. 13, line 12, line 57 to col. 14, line 11). Although Yamaashi et al does not recommend not performing a notification when the frame rate is high, only when the frame rate is low, it is viewed that such added feature would have been an obvious variant to achieve a desirable effect since Yamaashi et al already has the framework for performing a notification based on a frame rate. Therefore, taking the combined teachings of Yonezawa, Okazaki et al, and Yamaashi as a whole, one skilled in the art would have found it obvious to modify the system of Yonezawa and Okazaki et al to include notification and changes to the display state in accordance to the frame rate as claimed. Doing so would have resulted in more

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flexibility and efficiency in bandwidth capacity and also flexibility in changing display states of image information as taught in Yamaashi (col. 2, lines 5-9).

4. Claims 31, 33, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okazaki et al of record (5,819,048) in view of Yamaashi et al of record (5,621,429).

Okazaki discloses an image data processing apparatus as shown in Figures 1 and 2, and substantially the same communication apparatus and method, and storage medium storing a program (fig. 1, col. 3, lines 26-27) as claimed in claims 31, 33, 35, and 36, comprising substantially the same reception unit (102 of fig.1) for receiving images generated from a communication terminal (see fig. 1:101, also fig. 2); an output unit for outputting the images (this is served by 101: transmission module) received by said reception unit (102) in order to display the images on a display unit (fig. 2:203, also col. 7, lines 3+, also fig. 12); and a notification unit for acquiring and notifying of a state of reception of the reception unit, the state of reception comprising a state of frame rate of the images received by said reception unit while said reception unit is receiving the images (see fig. 1: "Report of Reception Rate", also col. 7, lines 3+); and wherein said notification unit causes the display unit to display an image information of the state of frame rate corresponding to each of the images received from the communication terminal, the image information being displayed on a predetermined area at a time when received images are displayed (see col. 3, lines 31-62, col. 7, lines 3-67, also figs. 3, 7, 11).



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Okazaki et al does not particularly disclose, though, the followings:

(a) wherein the notification unit notifies of the state of frame rate by changing the image information so that a first image information is displayed when the received images are displayed and the displayed images are changed, a second image information is displayed when the received images are displayed and the displayed images are not changed, and neither the first or the second image information are displayed when the received images are not displayed claimed in claims 31, 35, and 36; and

(b) wherein the notification unit does not perform notification when the frame rate is high, and performs notification when the frame rate is reduced as claimed in claim 33.

Regarding (a), it is noted that though Okazaki et al teaches the particular the notification unit for causing the display unit to display the image information of the state of the frame rate together with the received images, Okazaki et al does not particular disclose not neither the first or the second image information are displayed when the received images are not displayed as claimed. It is however considered obvious that such features of not displaying information when the received images are not displayed are provided within Okazaki et al even without specific disclosure since there would be no reason to display the intended image information regarding the state of the frame rate when no images are received. Since Okazaki et al teaches the particular display of the image information together with the received images, it is considered obvious to delete the feature of displaying image information such as in the situation where there are no received images as claimed. In any event, Yamaashi et al teaches the particular notification of the state of frame rate by changing the image information (i.e., the reception rate is displayed providing the image information of the state of the frame rate, together with the

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received images as provided on display 203) so that a first image information is displayed when the received images are displayed and the displayed images are changed (i.e., when the frame rate is changed based on the image quality desired by the user, new frame rate information representing the first image information is displayed when the received images are displayed and the displayed images are changed, see Abstract, column 3, lines 23-30, column 4, lines 30-67, column 7, lines 24-38, line 64 to column 8, line 18, column 8, lines 28-47, column 12, line 34 to column 13, line 12, column 13, line 57 to column 14, line 11), a second image information is displayed when the received images are displayed and the displayed images are not changed (i.e., frame rate information representing the second image information is displayed when images are displayed and the display images are not changed, see Abstract, column 3, lines 23-30, column 4, lines 30-67, column 7, lines 24-38, line 64 to column 8, line 18, column 8, lines 28-47, column 12, line 34 to column 13, line 12, column 13, line 57 to column 14, line 11), and neither the first or the second image information are displayed when the received images are not displayed (i.e., this is inherent if not obvious since there would be no need to display the frame rate or any other information corresponding to the first and second image information when the received images are not displayed). Therefore, it would have been obvious to one of ordinary skill in the art, having the Okazaki et al and Yamaashi et al references in front of him/her and the general knowledge of the display of information with images, would have had no difficulty in providing the notification unit for notifying of the state of frame rate by changing the information so that a first image information is displayed when the received images are displayed and the displayed images are changed, a second image information is displayed when the received images are displayed and the displayed images are not changed, and neither the first or the second image

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information are displayed when the received images are not displayed as taught by Yamaashi et al for the communication apparatus of Okazaki et al as well as recognizing that the display unit of Okazaki et al may obviously not display the image information when the received images are not displayed in view the obvious modification to the deletion of features within Okazaki et involving the display unit to display the image information together with the received images for the same well known notification and display of the state of frame rate thus resulting in more flexibility and efficiency in bandwidth capacity and also flexibility in changing display states of image information as claimed.

Regarding (b), Okazaki et al teaches performing a notification when the frame rate is high or low and recommending the appropriate action as a result of such notification (figs. 3-5, 11, also col. 4, lines 8+). Although Okazaki does not recommend not performing a notification when the frame rate is high, only when the frame rate is low as claimed, it is viewed that such added feature would have been an obvious variant to achieve a desirable effect since Okazaki already has the framework for performing a notification based on a frame rate.

5. Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okazaki et al and Yamaashi et al as applied to claims 31, 33, 35, and 36 in the above paragraph (4), and further in view of Yonezawa of record (6,271,805).

The combination of Okazaki et al and Yamaashi et al discloses substantially the same communication apparatus and method, and storage medium storing a program as above, but does not particularly disclose the followings:

(a) wherein changing the image information is a change in a state of display of an icon indicating the corresponding communication terminal as claimed in claim 32; and

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(b) wherein the notification unit comprises one of flashing of an icon, display of character information, and display of numerals as claimed in claim 34.

Regarding (a), Okazaki et al teaches a user interface module for displaying a list of frame rates (see col. 7, lines 3+, also fig. 2:203 and fig. 12 show a display for this purpose) to indicate the changing state of the display information, but fails to teach the technical features as required in claim 32. However, such technical features are well known and made obvious by Yonezawa (col. 12, line 8-18). Therefore, taking the combined teaching of Okazaki et al, Yamaashi et al, and Yonezawa as a whole, it would have been obvious to modify the user interface module in Okazaki et al to include the image information is a change in a state of display of an icon as taught in Yonezawa. Doing so would enhance the notification of the changing state of the display frame rates by changing the state of the display of an icon as claimed.

Regarding (b), Okazaki in view of Yonezawa teaches performing notification by displaying character information and display numerals (Okazaki, fig. 12, also col. 7, lines 3+, also fig. 2:203), and by changing the color of an icon (Yonezawa, col. 12, line 8-18). Despite the difference, it is viewed that having a flashing icon as a means for sending a notification as claimed is merely an obvious design preference used to achieve a desirable effect, but has no patentable weight over the combination of Okazaki and Yamaashi et al in view of Yonezawa due to the fact that the Okazaki and Yonezawa references teach notification means achieving equivalent results.

6. The Examiner wants to point out that the applicant's arguments from the amendment filed June 1, 2004 have been noted, considered, and addressed in the above new grounds of rejections.

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any response to this final action should be mailed to:

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or faxed to:


(703) 872-9314, (for formal communications; please mark "EXPEDITED PROCEDURE") (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (703) 308-6612. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group customer service whose telephone number is (703) 306-0377.

  
RICHARD LEE  
PRIMARY EXAMINER

Richard Lee/rl



8/18/04